IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9386 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANUBHAI RAISINGBHAI PARMAR

Versus

COMMISSIONER OF POLICE

Appearance:

MS BANNA S DUTTA for Petitioner

MR KT DAVE AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 07/03/2000

ORAL JUDGEMENT

#. Commissioner of Police, Baroda City, Baroda, passed an order on July 1, 1999, detaining the petitioner under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short) under section 3 (2) of the PASA Act. The said order has been challenged by the petitioner by this petition under

Article 226 of the Constitution of India.

#. The grounds of detention indicate that the detaining authority took into consideration four offences registered against the petitioner for the offences punishable under the Bombay Prohibition Act. The authority also took into consideration the statements of three anonymous witnesses in respect of incidents dated February 10, 1999, March 9, 1999 and May 16, 1999. The detaining authority found substance in the fear expressed by the witnesses and exercised powers under section 9(2) of the PASA Act, claiming privilege of not disclosing the identity of these witnesses. The detaining authority considered the possibility of resorting to less drastic remedies and came to conclusion that in order to immediately prevent the petitioner from pursuing his illegal and anti-social activities, the detention under the PASA Act is the only efficacious remedy that can be resorted to.

#. The petitioner has raised many contentions in the petition. However, Ms. Banna Datta appearing for the petitioner restricted her arguments to the fact that the representation made on behalf of the detenue on February 19, 2000 demanding certain documents has not been considered. This has adversely affected the right of the detenue of making effective representation and, therefore, the continued detention of the petitioner is vitiated.

#. Mr. Dave, learned AGP has opposed this petition. He however, after going through the file made available to him from the department states that factually it is correct that the documents demanded by the representation dated February 19, 2000 have not been supplied by the detaining authority though directed by the government.

#. In view of the fact that the documents demanded by the detenue have not been supplied by the detaining authority though directed tobe given by the government, the right of the detenue of making effective representative is adversely affected. This would vitiate the continued detention and therefore, the petition deserves to be allowed only on this ground.

#. The petition is therefore, allowed. The order of detention dated July 1, 1999 passed in respect of the detenue -Kanubhai Raisingbhai Parmar is hereby quashed and set aside. The detenue is ordered to be set at liberty forthwith, if not required in any other matter. Rule made absolute with no order as to costs.

[A.L.DAVE, J.]

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